



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

October 17, 2007

To: All Department Heads

From: 
William T Fujioka
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

RETROACTIVE CONTRACT REVIEW COMMITTEE - PROCEDURES

On May 22, 2007, the Board of Supervisors, on motion of Supervisor Molina, instructed this Office, the Auditor-Controller, and the Director of Internal Services, as part of a number of actions to reduce the occurrence of retroactive contracts and retroactive payments, to review all requests for retroactive contract and purchase order payments before they are submitted for Board approval (Attachment I). In addition, we were instructed to notify department heads and the Board of the circumstances leading to the violation of established procedures, and recommend corrective actions along with best practices.

In response to the Board's instructions, this Office established the Retroactive Contract Review Committee (RCRC) to review all retroactive contracts before they are submitted to the Board. The RCRC is chaired by this Office and includes representatives from the Auditor-Controller and Internal Services Department. The membership of the RCRC is as follows:

Chairperson	Martin Zimmerman, Assistant Chief Executive Officer, Chief Executive Office
Member	John Naimo, Assistant Auditor-Controller
Member	Dave Yamashita, General Manager, Internal Services Department

Attached are procedures that provide guidance and approximate timeframes for the review process, including scheduling a meeting with the RCRC and preparing a report to explain the circumstances that led to the retroactive occurrence, as well as corrective action measures implemented to prevent recurrence (Attachment II). To assist in this regard, also attached is a Retroactive Contracts/Payment Report/Checklist (Attachment III). Upon requesting an RCRC meeting, the Report/Checklist must be completed and submitted to the Chair of the RCRC by the department requesting approval of a retroactive contract/payment. For each retroactive matter, the RCRC will provide a final recommendation that will be reflected in the Board letter.

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Although progress has been made in lessening the incidence of retroactive payment requests, we are strongly re-emphasizing the importance of ensuring appropriate contract management and monitoring to avoid retroactive contracts and retroactive payments.

Should you have any questions regarding this memorandum, please contact me, or your staff may contact Martin Zimmerman at (213) 974-1326 or mzimmerman@ceo.lacounty.gov.

WTF:LN:MKZ
MLM:VLA:pg

Attachments

c: Each Supervisor
Executive Director, Small Business Commission
Administrative Deputies Network (Via Electronic Mail)
Contract Managers Network (Via Electronic Mail)



MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held May 22, 2007, the Board took the following action:

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The following item was called up for consideration:

The Director of Mental Health's recommendation to approve and instruct the Chairman to sign a sole-source agreement on a month-to-month basis with Mann & Associates, to provide the Department with essential professional and technical knowledge in marketing and media advertising in specialized, professional publications and newsletters for the recruitment of psychiatrists, effective upon Board approval through June 30, 2008, pending completion of a Request for Proposal process, at a total pro-rated cost of \$40,000 for Fiscal Year 2006-07 and \$150,000 for Fiscal Year 2007-08, fully funded by Sales Tax Realignment revenue; and authorize the Director to make retroactive payments in the amount of \$19,021 for professional services provided by Mann & Associates for personnel recruitment and related services.

Supervisor Molina made the following statement:

"On July 2, 2002, I authored a Board motion to eliminate retroactive payments for Board contracts. The Auditor-Controller informed me that the directives in that Board order were implemented, including a Board contract tracking system, and revised contract and purchase order language informing vendors they will not be paid for services rendered after contract expiration or termination.

"Although there has been progress in lessening the incidence of retroactive payments, today's agenda contains a request by the Department of Mental Health to approve a retroactive payment for services. I have been concerned about the number of recent requests for Board approval of retroactive payments despite clear policies and procedures for avoiding this practice. Whether mistakenly or intentionally, accountability procedures are being bypassed exposing this County to potentially large liabilities over which this Board has no input and no control other than to give its approval after-the-fact.

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"While we may never completely eliminate retroactive payments, we can do better through increased training, improved management and supervision, and use of discipline for employees who willfully or negligently disregard established County policy."

Therefore, Supervisor Molina made a motion that the Board take the following actions:

1. Instruct the Chief Administrative Officer, Auditor-Controller and Director of Internal Services to conduct a risk assessment within 60 days that will identify those Departments vulnerable to retroactive payments, review those Departments' purchasing structures, and make recommendations to improve their payment performance;
2. Instruct the Chief Administrative Officer to work with these Departments to implement appropriate recommendations and report back to the Board within 120 days on their progress;
3. Instruct every County Department and Commission to submit to the Chief Administrative Officer within 60 days, a list of any outstanding contract or purchase order payments that will require retroactive approval by this Board;
4. Direct the Chief Administrative Officer, in collaboration with the Auditor-Controller and Director of Internal Services to review all requests for retroactive contract and purchase order payments before they are submitted for Board approval, notify Department Heads and the Board of the circumstances leading to the violation of established procedures, and recommend corrective actions along with best practices; and
5. Instruct the Chief Administrative Officer, before the close of each fiscal year and prior to the adoption of the final County budget, to provide a report to the Board of all retroactive payments approved by the Board for each Department and all pending retroactive payments for each County Department.

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25 (Continued)

After discussion, the Chairman ordered a division of the question.

On motion of Supervisor Molina, seconded by Supervisor Knabe, Supervisor Molina's aforementioned motion was unanimously carried.

The Director of Mental Health's attached recommendations were duly carried by the following vote: Ayes: Supervisors Burke, Knabe, Antonovich and Yaroslavsky; Noes: Supervisor Molina.

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Attachment

Copies distributed:
Each Supervisor
All Department/District Heads
and appropriate Commissions

RETROACTIVE CONTRACTS REVIEW COMMITTEE (RCRC)

Members:

- Chief Executive Office (CEO), Chair,
- Office of the Auditor-Controller (Auditor)
- Internal Services Department (ISD)

Procedures:

ACTION	TIMEFRAME ESTIMATE
1. County department advises the CEO, via the appropriate Deputy Chief Executive Officer (DCEO), that they are seeking Board approval of a retroactive contract.	N/A
2. DCEO advises Chair of the RCRC.	1 day
3. County department provides a written report on the matter to the Chair of the RCRC; report must include information as enumerated in Retroactive Contract Report/Checklist issued by the RCRC, including the cause, disciplinary actions taken, if appropriate, and a Corrective Action Plan to help prevent recurrence.	2 days
4. RCRC Chair advises other RCRC members, Auditor, and ISD, and provides copies of documents.	1 day
5. RCRC Chair schedules meeting to consider departmental proposal for retroactive contract approval; meeting includes departmental representatives, appropriate DCEO and staff.	1 week
6. <u>RCRC Meeting:</u> Department is allowed an opportunity to present its case for retroactive contract approval, followed by an opportunity for RCRC members and DCEO/staff to ask questions of the department. RCRC issues final recommendation(s) based on majority vote of members, including one or more of the following recommendations: <ul style="list-style-type: none"> ▪ That retroactive contract not be approved; ▪ That retroactive contract be approved as proposed by department; ▪ That retroactive contract be approved with modification(s); ▪ That department return with corrective action plan and/or that the Auditor conducts an audit; ▪ That department negotiate reduced contract amount with contractor; or ▪ That department develop and provide additional information (e.g., develop/revise corrective action plan), and return to RCRC. 	N/A
7. Final recommendation(s) of the RCRC reflected in CEO Board letter regarding retroactive contract. Before the Board letter is finalized, <u>RCRC members are provided an opportunity (via e-mail) to review the language describing the RCRC's deliberations for accuracy and completeness.</u>	Board letter filing deadlines

RETROACTIVE CONTRACTS/PAYMENTS REPORT/CHECKLIST

Department Name:	
Department Contact Name:	
Departmental Contact Title:	
Departmental Contact E-mail:	
Departmental Contact Phone Number:	
Contract Title, Purchase Order, or Blanket Purchase Order No.:	
Vendor Name:	
Type of Service(s):	
Period of Service:	
Retroactive Period:	
Total Contract/Purchase Order Amount:	
Retroactive Amount:	

Type of Retroactivity:

Description	Yes ✓	N/A ✓
The goods or services were ordered without a valid Purchase Order* or Board contract ever being established.		
The services exceeded the scope and/or amount of a valid Board-approved contract.		
The retroactive services were ordered after the expiration of a valid Board-approved contract.		
The retroactive services were an unauthorized/unreported extension of a prior Purchase Order(s)* issued by ISD that occurred after reaching the \$100,000 statutory threshold of the Purchasing Agent in order to continue services.		
The retroactive goods and/or services were previously ordered and/or obtained via Departmental Blanket Purchase Order(s).**		
Other (Explain Below)		

* Attach Purchase Order(s).

** Attach eCAPS transaction report on referenced Blanket Purchase Order(s).

General Information

Based upon the box(es) checked above, provide a detailed explanation as to how these retroactive services were ordered or occurred and how the issue has been handled, including:

- Provide background/narrative with all relevant time frames concerning the retroactive contract situation.
- Explain how the recommended payment amount was determined, particularly if there was no contract or purchase order underlying the goods/services received.
- Attach vendor invoices that support the recommended payment amount.
- Indicate whether or not disciplinary action was taken or is planned. For action taken or planned, indicate at what level(s) within the departmental organization.
- Attach a corrective action plan that explains the steps taken to prevent the recurrence of the situation. Minimum elements of the corrective action plan include:
 - ✓ The specific act or condition which resulted in the incident (immediate cause);
 - ✓ The specific item(s) that, when corrected, would result in long-term prevention of similar accidents, incidents or events (the root cause);
 - ✓ Description of the corrective action plan tasks;
 - ✓ Start and completion dates of the corrective action plan;
 - ✓ Responsible person for management of the corrective action plan;
 - ✓ Lessons learned as a result of the situation; and
 - ✓ How the corrective action plan effectiveness will be measured.

Procurement Accountability/Responsibility

For any violation of County procurement policy noted above, please indicate the functional responsibility of the staff person(s) responsible for requesting goods/services from the vendor.

Also note if any departmental policies were violated.

Fiscal Accountability/Responsibility

Indicate when the fiscal office first become aware of the retroactive contract or purchase (for Shared Services clients, indicate when Shared Services was initially notified).

Indicate actions taken/notifications made by fiscal office, if any, when invoices remained unpaid after 30 days.

Urgency

Indicate if there is any urgent need to obtain Board approval as soon as possible, e.g., is maintenance of critical services at risk?